IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT APPEAL No.666 of 2002

(Writ Appeal under Clause 15 of the Letters Patent Appeal against the Order dated 14/03/2002 in WA NO : 18017 OF 2000 on the file of the High Court.)

Between:

Singireddy Yadi Reddy,
late Myagham Reddy, Hindu, Occ; Milk Veendor,
R/o. Bapuji Nagar, Boinpally, Secunderabad.

..... APPELLANT

AND

1 Cantonment Board,
Secunderabad , rep. by its Chairman.

2 The Sanjeevaiah Nagar Co-op,
House Building Society Ltd., Bowenpally, Secunderabad,
rep. by its president P. Jayaprakash Reddy, R/o.1-97/1,

Ferozguda, Bowenpally, Secunderabad.

.....RESPONDENT(S)

Counsel for the Appellant: Smt. A. Anasuya

Counsel for the Respondent No.1: MR.Y.V. Ravi Prasad.

S.C. for Cantonment Board.

Counsel for the Respondent No.2: Mr. P.R. Prasad.

The Court made the following :

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JUDGMENT:(Per BRSR,J)

The unsuccessful petitioner in W.P. No.18017 of 2000 is the appellant in this writ appeal preferred against the order dated 14-03-2002 in the said writ petition passed by a learned single Judge of this Court.

The appellant herein claims to be the true and absolute owner being 1/3rd shareholder in the land admeasuring Acs.2-05 guntas comprised in Survey No.18 of Pedda Thokatta Village (Bowenpally) within the jurisdictional limits of Secunderabad Cantonment area. The land originally belonging to B.V. Prakash Reddy who was the pattedar. The claim of the appellant is that his father was protected tenant and after his death, he and his brother and other family members succeeded to the property. The 2nd respondent-Sanjeevaiah Nagar Co-operative House Building Society, is alleged to have been purchased the land comprised in Survey Nos.15, 16, 18 and 33 from the original pattedars under the registered sale deeds. That after getting the layout, so prepared, obtained the approval from the 1st respondent-Cantonment Board.

The simple case of the appellant is that at the instance of the 2nd respondent, the 1st respondent unnecessarily without any authority of law started interfering with the land admeasuring about 0-28 guntas comprised in Survey No.18, which

allegedly had fallen to the share of the appellant in an arrangement between himself and other members of the family. The case of the appellant is that the 1st respondent has no authority in law to interfere with the possession and enjoyment of the land in his possession. The case of the Cantonment Board is that the said land has been made available to the Cantonment Board by the 2nd respondent at the time when the layout was approved and the same vests in the Cantonment Board. The specific contention of the appellant is that, portion of the land which is in his possession was not specifically donated as such by the

2nd respondent herein in favour of the 1st respondent herein. In fact, no such donation could have been made, since he continues to be in possession and enjoyment of the land as an absolute owner after obtaining the ownership certificate under Section 38-E of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950.

The learned single Judge upon perusal of the averments made in the counter affidavit filed by the 1st respondent-Cantonment Board, made certain observations and held that the respondents herein acquired absolute title to the land in question. The learned single Judge observed that if the appellant has any right, he has to work it out with his brothers and the original landholders or against their successors in title but he cannot be permitted to stall the developmental work undertaken by the Board like cleaning the drains and keeping the roads free for use by road users.

The very assertions made by the appellant herein asserting his right, title and interest and the nature of dispute raised by the respondents herein about the very ownership of the land make this public law remedy proceeding initiated under Article 226 of the Constitution of India, unsuitable for resolution of the dispute raised by the appellant. It is very well settled that the resolution of disputes relating to title and possession of the immovable properties cannot be satisfactorily adjudicated in a summary proceeding under Article 226 of the Constitution of India. The public law remedy Forum is ill suited for resolution of such disputes. The question is not one of jurisdiction but exercise of jurisdiction

vested in this Court.

Having regard to the nature of dispute between the parties, we are not inclined to grant any relief to the writ appellant.

Leave is granted to the appellant to avail such remedy as may be available to him in law and in the event of availing any such remedy, the matter may have to be adjudicated upon its own merits.

The observations made by the learned single Judge about right, title and claim of the appellant herein with regard to the land in question shall have no bearing whatsoever, in case, if the appellant avails any common law remedy that may be available to him in law.

With the observations as above, the Writ Appeal shall stand dismissed. No order as to costs.

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B. SUDERSHAN REDDY, J

Date:21-07-2004

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K.C. BHANU, J

PV

To

1) The Chairman

Cantonment Board,

Secunderabad.

2) Two C.D. Copies.